

FILED
for Roanoke
FEB 18 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: [Signature]
DEPUTY CLERK

GEORGE P. BRANHAM, JR.,)	Civil Action No. 7:14-cv-00061
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
IMAGING CENTER,)	By: Hon. Jackson L. Kiser
Defendant.)	Senior United States District Judge

George P. Branham, Jr., a Virginia inmate proceeding pro se, filed a Complaint pursuant to 42 U.S.C. § 1983 naming the Imaging Center in Blacksburg, Virginia, as the sole defendant. This matter is before me for screening, pursuant to 28 U.S.C. § 1915(e). After reviewing Plaintiff's submissions, I dismiss the action without prejudice for failing to state a claim upon which relief may be granted.

Plaintiff alleges the following facts. A physician at Plaintiff's correctional facility referred Plaintiff to the Imaging Center for an MRI. A post-MRI report from a physician at the Imaging Center stated that Plaintiff suffered an injury to his elbow, and unidentified employees of the Imaging Center negligently forgot to contact Plaintiff, to schedule follow-up treatment, and to send the report to the correctional facility until months later. Plaintiff believes he could have avoided having subsequent surgery on his elbow if the Imaging Center's employees had not delayed sending the report.

I must dismiss the action against the Imaging Center because it cannot be liable under respondeat superior in a § 1983 suit for the alleged negligent acts or omissions by its employees. Monell v. Dep't. of Soc. Servs., 436 U.S. 658, 694 (1978); Estelle v. Gamble, 429 U.S. 97, 105-06 (1976); Powell v. Shopco Laurel Co., 678 F.2d 504, 506 (4th Cir. 1982). Accordingly, I dismiss the federal claims without prejudice for failing to state a claim upon which relief may be

granted, and I decline to exercise supplemental jurisdiction over any state law claim related to the Complaint, pursuant to 28 U.S.C. § 1367(c).

ENTER: This 18th day of February, 2014.


Senior United States District Judge